



GCE AS/A level

1252/01

LAW – LA2

UNIT 2: Understanding Legal Reasoning,

Personnel and Methods

P.M. TUESDAY, 2 June 2015

1 hour 30 minutes plus your additional time allowance

ADDITIONAL MATERIALS

In addition to this examination paper, you will need a 12 page answer book.

INSTRUCTIONS TO CANDIDATES

Use black ink, black ball-point pen or your usual method.

Answer TWO questions.

INFORMATION FOR CANDIDATES

Each question carries 25 marks.

The number of marks is given in brackets at the end of each question or part-question.

You are reminded that assessment will take into account the quality of written communication used in your answers.

Answer TWO questions.

- 1. Study the following and answer the questions based on it.**

“A range of factors – the expansion of the regulatory state, the rapidly changing nature of technology, the growth of EU legislation – have all contributed to a significant increase in the volume, technicality and complexity of delegated legislation in recent years. It has also been widely asserted that the use of delegated legislation has increasingly drifted into areas of principle and policy rather than technical areas of operational detail. Yet very little is currently known about how decisions are made within Government about the delegation process ...”

Source: Lifting the Lid on Delegated Legislation, Hansard Society, January 2013

- (a) Explain the types of delegated legislation. [14]**
- (b) Discuss the advantages and disadvantages of delegated legislation. [11]**

2. Study the following and answer the questions based on it.

“This is a significant day for this House, and a sad one too, but it is also an important day for British justice, for the British justice system, and for this country: its history and its future. It is significant because the move of the Lords of Appeal in Ordinary from the Palace of Westminster brings to an end a hugely important part of this House’s history and role: the judicial work of this House. It is sad for the same reason, of course: because this House will lose the advantages of having in and around the House people of such calibre as the current 12 Lords of Appeal in Ordinary and their predecessors, who are still in the House. It is, however, enormously important because of what they are going from this House to be: the first 12 Justices of the new United Kingdom Supreme Court – the new apex of the British justice system.”

Source: Baroness Royall of Blaisdon H L Hansard, 21st July 2009, col 1507

- (a) Explain the need for the Supreme Court to replace the House of Lords. [14]
- (b) Assess the social composition of the judiciary and its significance. [11]

3. Study the following and answer the questions based on it.

“It is a principle of construction of the United Kingdom statutes ... that the words of a statute passed after the Treaty has been signed and dealing with the subject matter of the international obligations of the United Kingdom, are to be construed, if they are reasonably capable of bearing such a meaning, as intended to carry out the obligation and not be inconsistent with it.”

Source: Garland v British Rail Engineering Limited (1982)

- (a) Explain the effect of EU law on the interpretation of statutes. [14]
- (b) Using your knowledge of statutory interpretation, explain how a court might approach the interpretation of this section in the light of the facts set out below. [11]

**PROTECTION OF FISH IN THE CELTIC SEA (FICTITIOUS)
ACT 2014**

Section 1 makes it an offence to fish in the Celtic Sea without a licence.

Section 2 provides that “a licence is granted to all fishing boats so long as they have been adapted for private use and enjoyment and no licence shall be granted to commercial fishing vessels”.

David owns a fishing trawler which he operates in the North Sea. While visiting his friend Ernie in Tenby he agrees to take him out on a special cruise to include some fishing in the Celtic Sea. In order to celebrate Ernie’s 45th birthday, they agree not simply to use some rods but to cast some nets in order to catch fish for his special birthday party in Tenby when he expects 150 of his friends to be present. Whilst fishing in the Celtic Sea, the vessel is boarded by the Royal Navy and David is arrested under Section 1 of the Act. Advise David.

4. Study the following and answer the questions based on it.

“On principle it seems to me that, while this court shall regard itself as normally bound by a previous decision of the court, nevertheless it should be at liberty to depart from it if it is convinced that the previous decision was wrong. What is the argument to the contrary? It is said that, if an error has been made, this court has no option but to continue the error and leave it to be corrected by the House of Lords. The answer is this: the House of Lords may never have an opportunity to correct the error; and thus it may be perpetuated indefinitely, perhaps forever.”

Source: Lord Denning, Davis v Johnson (1978)

- (a) Explain the extent to which the Court of Appeal is bound by its decisions. [14]
- (b) Discuss the arguments for and against judicial law making. [11]

END OF PAPER